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Attorneys for Signify Health, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Jon Phelps, for himself and on behalf of all
others similarly situation [sic],

Plaintiff,

v.

Signify Health, a Delaware Corporation
and DOES 1-10,

Defendants.

Case No. _____

(Superior Court of Arizona, Maricopa
County, Case No. CV2024-034727)

**DEFENDANT SIGNIFY HEALTH,
LLC'S NOTICE OF REMOVAL TO
FEDERAL COURT**

Defendant Signify Health LLC, a limited liability company organized and existing
under the laws of the State of Delaware ("Signify Health"), files this Notice of Removal
and in support of this Notice states as follows:

1. This action was commenced in the Superior Court of the State of Arizona,
in the County of Maricopa, by the filing of a Complaint on December 3, 2024, by Plaintiff
Jon Phelps, for himself and on behalf of all others similarly situated, against Signify
Health. (*Phelps v. Signify Health* (Docket Number CV2024-034727)) (the "State Court
matter").

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1 2. On December 10, 2024, Signify Health was served with a copy of the
2 Summons and Complaint by process server.

3 3. A true and complete copy of the Civil Cover Sheet is attached as **Exhibit 1**
4 to the Declaration of Jessica D. Kemper filed concurrently with this Notice of Removal
5 (“Kemper Decl.”). A true and complete copy of the Supplemental Civil Cover Sheet is
6 attached as **Exhibit 2** to the Kemper Declaration. A true and complete copy of the docket
7 in the State Court matter, as of December 26, 2024, is attached to the Kemper Declaration
8 as **Exhibit 3**. A true and complete copy of the Complaint in the State Court matter is
9 attached to the Kemper Declaration as **Exhibit 4**. A true and complete copy of the
10 Affidavit of Service is attached to the Kemper Declaration as **Exhibit 5**. True and
11 complete copies of the Summons, Civil Cover Sheet, and Certificate of Compulsory
12 Arbitration that was served on Signify Health and the undersigned understands was filed
13 in the State Court matter are attached to the Kemper Declaration as **Exhibit 6**. The
14 Complaint includes “Does 1-10” as part of the caption, but as discussed below, there are
15 no claims asserted against any of those unnamed and unidentified “Does”.

16 4. The Complaint, Summons, Civil Cover Sheet, Certificate of Compulsory
17 Arbitration, and Affidavit of Service (*see* Kemper Decl., Exs. 4-6) constitute all the
18 process, pleadings, or orders received by Signify Health or filed in the State Court matter.
19 To Signify Health’s knowledge, no other hearings or other proceedings have taken place
20 in that matter. Pursuant to LRCiv 3.6(b), Signify Health’s undersigned counsel verifies
21 that true and correct copies of all pleadings and other documents filed in this state court
22 proceeding or served on Signify Health have been filed with this Notice. *See* Kemper
23 Decl.

24 5. This Notice of Removal is timely under 28 U.S.C. § 1446(b), since it is
25 being filed within 30 days after service of the initial pleading or document (*i.e.*, the
26 Summons and Complaint) that provides the grounds for this removal petition (*i.e.*, based
27 on federal question jurisdiction) on Signify Health.
28

1 6. Removal is appropriate for civil actions over which the district courts have
2 original jurisdiction. 28 U.S.C. §1441(a). *See United Steel, Paper & Forestry, Rubber*
3 *Mfg. Energy, Allied Indus. & Serv. Workers Int'l Union, AFL-CIO, CLC v. Shell Oil Co.*,
4 549 F.3d 1204, 1208 (9th Cir. 2008). “Congress granted federal district courts ‘original
5 jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the
6 United States.’” *Tijerino v. Stetson Desert Project, LLC*, 934 F.3d 968, 971 (9th Cir.
7 2019) (quoting 28 U.S.C. § 1331). Federal question jurisdiction over Plaintiff’s
8 complaint pursuant to 28 U.S.C. § 1331 is clear in this case, where the sole cause of action
9 is an alleged violation of the federal Telephone Consumer Protection Act (“TCPA”), 47
10 U.S.C. § 227(b).

11 7. Federal question jurisdiction exists “where federal law creates the cause of
12 action.” *Republican Party of Guam v. Gutierrez*, 277 F.3d 1086, 1088 (9th Cir. 2002).
13 That is the case here.

14 8. The Complaint asserts a single federal law claim under the TCPA against
15 Signify Health. The claim, Count I of the Complaint, alleges that Signify Health violated
16 Section 227(b)(1)(A)(iii) of the TCPA. (*See Kemper Decl.*, Ex. 3, ¶ 69). Because the
17 Complaint that asserts a cause of action under federal statutory law against Signify Health
18 and this Notice of Removal is being filed within 30 days of service of the Summons and
19 Complaint in the State Court matter, this Notice of Removal meets the requirements for
20 removal under 28 U.S.C. 1441(a).

21 9. Despite the Complaint’s caption identifying “Does 1-10,” the Complaint
22 does not identify or name any of these unknown entities or individuals. The allegations
23 in the Complaint are directed against a single defendant, Signify Health, not against any
24 of these unnamed DOE entities or individuals. With no claims asserted against any of the
25 “DOES 1-10,” they are not joined in the case, so there is no requirement to obtain any
26 consent to remove the State Court matter. *See* 28 U.S.C. §1446(b)(2)(A) (requiring
27 consent only of defendants who “have been properly joined and served”).
28

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10. Yet, even if these unknown entities or individuals were deemed to have been joined as “defendants” in this matter, there is no obligation for Signify Health to obtain consent from these unknown and fictitious “parties.” Nothing in the Complaint provides any identification of those entities, and there is no way for Signify Health to identify if the “Does” are even real. Certainly, there is no evidence that they have been served and thus no consent is required. *Id. See Universal Comput. Sys., Inc. v. AT&T Corp.*, 298 F.3d 756, 762 (9th Cir. 2002) (stating that “the rule of unanimity does not apply to nominal, unknown or fraudulently joined parties”) (internal quotations and citation omitted). As a result, Signify Health has no obligation to obtain consent from any of these Doe 1-10 entities or individuals in order to remove this matter.

11. Venue is proper in the District of Arizona because it is the district court for the district and division where the state-court action is pending. *See* 28 U.S.C. §§ 82, 1441(a).

12. After filing this Notice of Removal, Signify Health will promptly serve written notice of this Notice of Removal on Plaintiff’s counsel and file a true and correct copy of the same with the Clerk of the Superior Court of Arizona, in and for Maricopa County, in accordance with 28 U.S.C. § 1446(a) and (d) and LRCiv 3.6(a).

13. By this filing, Signify Health does not admit any liability, does not concede the accuracy of Plaintiff’s allegations, and does not concede that the state or federal courts in Arizona have personal jurisdiction over it or that Plaintiff is entitled to any of the relief sought in the Complaint, or relief of any kind. Similarly, nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of Signify Health’s right to assert any defense or affirmative matter including, but not limited to, the defenses of lack of personal jurisdiction, improper venue, insufficiency of process, failure to state a claim, or any other procedural or substantive defense available to Signify Health. *See Wabash W. Ry. v. Brow*, 164 U.S. 271, 278–79 (1896) (noting that removal to federal court counts as a special appearance and does not waive the right to object to personal jurisdiction).

14. Signify Health requests a trial by jury on all issues.

1 WHEREFORE, Signify Health hereby removes this action from the Superior Court
2 of Arizona, in and for the County of Maricopa, to the United States District Court for the
3 District of Arizona.

4 DATED this 27th day of December 2024.

5
6
7 By: /s/Jessica D. Kemper

8 **GREENBERG TRAUIG, LLP**

9 Jon T. Neumann

10 Jessica D. Kemper

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16 *Attorneys for Defendant Signify Health,*
17 *LLC*

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